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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: DARLING

Application Serial No.: 10/016,289

Filing Date: October 31, 2001

For: COMPUTERIZED INTERFACE FOR  
PROVIDING, EDITING AND  
ACCESSING CONTENT

) Group Art Unit: 3621

) Examiner: Daniel L. Greene

) **RESPONSE TRANSMITTAL to**  
) **Notification of Non-Compliant Appeal**  
) **Brief (37 CFR 41.37) mailed 08/18/2005**

) Attorney Docket No.: G08.058

) **PTO Customer Number 28062**  
) Buckley, Maschoff & Talwalkar LLC  
) Five Elm Street  
) New Canaan, CT 06840

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 6, 2005.

Dated: September 6, 2005 By: 

Edith Martin

Mail Stop Appeal Brief - Patents  
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Sir:

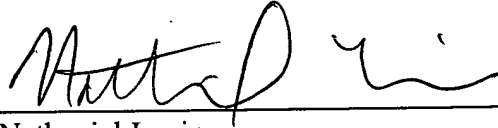
Transmitted herewith for filing are:

1. ☒ Resubmitted Appeal Brief (re-submission of second Appeal Brief filed herein)
2. ☒ Appendix A – Claims
3. ☒ Appendix B – Evidence
4. ☒ Appendix C – Related Proceedings
5. ☒ Additional Enclosures: Acknowledgement Postcard

The Commissioner is hereby authorized to charge and credit Deposit Account No. 50-1852 as described below. A duplicate copy of this sheet is enclosed.

- ☒ Credit any overpayment.
- ☒ Charge any additional fees required under 37 CFR 1.17.

Respectfully submitted,



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September 6, 2005  
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) **RE-SUBMITTED APPEAL BRIEF (re-**  
) **submission of second Appeal Brief filed**  
) **herein) in Response to Notification of**  
) **Non-Compliant Appeal Brief (37 CFR**  
) **41.37) mailed 08/18/2005**

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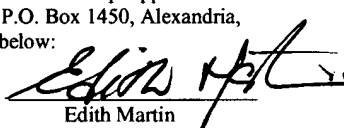
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Dated: September 6, 2005

By:

  
Edith Martin

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner in the Final Office Action mailed February 24, 2005 (the "Final Office Action"), rejecting claims 16-24.

## **REAL PARTY IN INTEREST**

The present application is assigned to GOLDMAN, SACHS & CO., 85 Broad Street, New York, New York 10004, U.S.A.

## **RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known to Appellants, Appellants' legal representative, or assignee, which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

## **STATUS OF CLAIMS**

Claims 16-24 are pending in this application. All pending claims stand rejected and are now being appealed.

Claims 1-15 have previously been canceled.

## **STATUS OF AMENDMENTS**

No amendments were filed after final rejection.

## **SUMMARY OF CLAIMED SUBJECT MATTER**

In certain environments, such as the financial industry, it may be necessary for a large organization to rapidly generate a large number of documents to be disseminated via a number of different outlets, such as websites, e-mail, alert channels that reach recipients who have previously elected to receive information on particular topics, and branded content issued in the name of a recognized authority or resource. (Specification, page 9, lines 1-10; page 2, lines 10-16) The documents may be created by any one of a number of different people in the organization, and may need to receive one or more levels of editing and review before being released. (Specification, page 4, lines 6-12; page 2, line 22 to page 3, line 3)

The present invention is concerned with a networked computer system which streamlines document creation and automates routing of documents for review within the system. (FIG. 5; specification page 12, line 22 to page 13, line 2; page 4, line 12 to page 5, line 8) Content creators (authors of documents) are allowed to log into the system and are allowed to select a template that is specific to a particular type of document to be created by the content creator. (Specification, page 15, lines 10-17) The content creator creates a draft by using the template. (Specification, page 16, lines 4-5; page 17, lines 15-16) At least one reviewer or editor for the draft is selected, at least partly on the basis of the template used by the content creator. The draft created by the content creator is then transmitted within the system to the selected reviewer or editor. (Specification, page 17, lines 16-20; page 18, line 22 to page 19, line 5; FIGS. 6 and 8) Tags may be applied to drafts to further control routing and tracking of the drafts. (Specification, page 16, lines 5-8 and 12-16)

Thus, with the reviewer or editor being determined on the basis of the template used to create the document, rules for review of the document are automatically enforced, and routing of the document for review occurs with a minimum of action on the part of the content creator.

Appellants will next set forth the corresponding acts described in the specification for each of the step plus function limitations of the claims that are separately argued herein.

#### Claim 16

“Allowing a content creator to log into a system”—specification, page 15, line 10 (Creator logs into the system).

“Providing a content type specific template to the content creator”—specification, page 15, line 18 to page 16, line 5 (Creator accesses the Template).

“Allowing the content creator to create a draft by using the content type specific template”—specification, page 16, lines 4-5 and page 17, lines 15-16 (Creator adds content to template and saves draft).

“Selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system...based at least in part on the content type specific template”—specification, page 17, lines 16-19 (appropriate Recipient determined by template, which in turn is controlled by the Content Type).

“Transmitting the draft to an inbox of the selected at least one of a reviewer and an editor”—specification, page 17, lines 19-22 (system places content into an Inbox of the appropriate recipient).

Claim 18 (indirectly dependent on claim 16, also argued separately)

By its dependency on claim 17 (which in turn is dependent on claim 16), claim 18 includes the functional step of “allowing the content creator to select the content type specific template from among a plurality of content type specific templates supported by the system”. The corresponding act is described in the specification at page 15, line 18 to page 16, line 4 (Creator accesses selected template).

Claim 18 adds the limitations that the plurality of content type specific templates recited in claim 16 includes respective templates suitable for creating (a) a website document, (b) an e-mail, (c) an alert, and (d) branded content. Support in the specification for these various types of templates is found at page 4, line 22 to page 5, line 2 and page 8, line 23 to page 9, line 7.

Claim 20 (dependent on claim 16, also argued separately)

“Applying a tag to the draft”—specification, page 16, lines 5-16 (content is automatically tagged).

“selecting the at least one of a reviewer and an editor...based at least in part on the tag applied to the draft” —specification, page 16, lines 5-16 (tags used to disseminate content as it proceeds through the system).

Claim 21

This is an independent method claim. Every functional step recited in claim 21 is also contained either in claim 16 or claim 20. Accordingly, this honorable Board is respectfully referred to the above discussion of claims 16 and 20 for the identification of the corresponding acts described in the specification.

## **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 16-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Balderrama (U.S. Patent No. 5,806,071).

## ARGUMENT

### *I.     Applicable Law*

All of the issues in this appeal are related to rejections under 35 U.S.C. § 103(a). The law governing application of 35 U.S.C. § 103(a) is set forth in general terms as follows in *In re Kotzab*, 217 F.3d 1365 (Fed.Cir. 2000):

A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art [citing § 103(a)].

In comparing the claimed invention with the prior art, both the claimed subject matter as a whole and the prior art as a whole must be considered. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143 (Fed.Cir. 1985).

### *II.    Process and System disclosed in the Balderrama reference*

Balderrama is primarily concerned with a system and methods for creating multi-media presentations to be displayed by a kiosk or the like in a retail store. (Column 1, lines 14-23). In Balderrama's system and method, a template for the multimedia presentation is created and then is customized (the reference uses the term "configured") for use in a specific store of a retail chain. (Column 1, lines 14-23 and 56-61.) An example of an environment in which Balderrama's system and methods may be applied is a chain of fast food restaurants. (Column 1, lines 48-61; column 4, lines 35-44.)

The template may include still and motion graphics, audio and video messages and text to create a presentation. (Column 6, lines 17-23.) More specifically the template may be constructed from dialog files 62 (FIG. 3; column 6, lines 23-29); graphics and icons generated by use of graphics editor software 64 (FIG. 3; column 6, lines 29-37); audio files generated by use of audio editor software 66 (FIG. 3; column 6, lines 37-42), and data files created and/or updated by data file editor software 68 (FIG. 3; column 6, lines 43-630).

The template is stored in the chain headquarters computer, at a store location, or at the location of a third party service provider. (Column 8, lines 16-20.) Database records for a particular store location are used to “configure” the template for use at the store location. (Column 9, line 16 to column 10, line 13; column 11, lines 37-54.) Subsequent changes to the presentation may occur due to either database modification or updates of the template itself. (Column 12, lines 24-32).

### ***III. Claim 16 is not obvious in view of the Balderrama reference***

Claim 16 is an independent method claim. In the invention recited in claim 16, a content creator is allowed to log into a system, and is provided with a content type specific template. The content type specific template is associated with a particular content type of a plurality of content types.<sup>1</sup> The content creator is allowed to create a draft by using the content type specific template.

Claim 16 further recites, in a key step, that at least one of a reviewer and an editor is selected from among a plurality of reviewers and editors accessible via the system, with the selection of reviewer or editor being based at least in part on the content type specific template. Claim 16 also specifies that the selected reviewer or editor is a user of the system (i.e., an individual human being).

Finally, in accordance with claim 16, the draft is transmitted to an inbox of the selected reviewer/editor.

Appellants believe that if the method recited in claim 16 is compared, as a whole, with the whole of Balderrama’s method/system for creating multimedia presentations, it is apparent that there is at least one large difference between the two, and that this difference is far from obvious.

At the outset, appellants recognize that, broadly speaking, both Balderrama’s system/method and the method recited in claim 16 share the general idea of using a template to

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<sup>1</sup> As is made clear at page 15, lines 10-17 of the specification, each content type specific template is suitable for creating a different type of document. Examples of the different types of documents (and thus of the different types of templates) are listed at the top of page 9 of the specification as: (a) website documents, (b) email, (c) alerts (sent to end users who have opted to receive news about specific securities, and (d) branded content (e.g., information sent from a recognized authority).



create a document (assuming that the term “document” can be construed to include a multimedia presentation). However, the reference does not explicitly concern itself with forwarding a document to a reviewer or editor. Most significantly, the reference does not in any way teach or suggest that a reviewer or editor for a document is to be selected based on the template used to create the document. Thus this key feature of claim 16 is not present in the reference. It is believed that this difference is clearly unobvious and renders claim 16 patentable over the Balderrama reference.

Having pointed out an unobvious difference between the method of claim 16 and the Balderrama reference, appellants will now turn to the Examiner’s treatment of the corresponding feature of claim 16.

As indicated in the Final Action at page 3, first paragraph, the Examiner appears to rely on a passage at column 6, lines 25-42 in the Balderrama reference as allegedly showing the feature of selecting a reviewer or editor based on the template used to create a document. However, this passage completely fails to teach or suggest such a feature.

Notably, this passage makes no mention of a reviewer or editor for a document. However, the passage does refer to certain software packages as graphics editors or audio editors that may be used to construct a template for a multi-media presentation. Rather unaccountably to the appellants, the Examiner has persisted in the view that these software packages are pertinent to the human editor or reviewer selected in accordance with claim 16. Moreover, the Examiner has continued to adhere to this position even after claim 16 was amended to specifically state that the selected editor or reviewer was a user of the system. In any case the cited passage of the reference has nothing whatever to do with selecting a reviewer or editor for a document based on a template used to create the document. Thus the Examiner’s treatment of this limitation of claim 16 completely misses the point.

For the above reasons, appellants respectfully request that the rejection of claim 16 be reversed. Claims 17-20 are dependent on claim 16 and should be held patentable on the same basis as claim 16. Also, there are separate grounds of patentability for at least some of the dependent claims, which are argued separately below.

#### **IV. Separate Argument in Support of Claim 18**

In particularly pertinent part, claim 18 recites that the plurality of content type specific templates includes respective templates suitable for creating a website document, an e-mail, an alert and branded content. Appellants believe that not one of such specific types of templates is taught or disclosed in the Balderrama reference, and the Examiner apparently agrees (Final Action, bottom of page 4 to top of page 5). However, the Examiner contends that these limitations of claim 18 constitute “nonfunctional descriptive material ... not functionally involved in the steps recited of the method claims” at issue. The Examiner then declined to grant patentable weight to these limitations, citing *In re Gulack*, 703 F.2d 1381 (Fed.Cir. 1983) and *In re Lowry*, 32 F.3d 1579 (Fed.Cir. 1994).

Appellants respectfully contend that the various types of templates recited in claim 18 satisfy the tests of *Gulack* and *Lowry* in that the types of the templates are functionally related to the method steps of supplying a template and creating a document using the template. In particular, the specific types of the templates allow the methods to produce a selected one of a number of different types of document, thus performing a basic function of a document creation system of the type disclosed in the present application. It is therefore believed that the Examiner was erroneous in finding the template types nonfunctional and in refusing to accord the same patentable weight.

#### **V. Separate Argument in Support of Claim 20**

Claim 20 is dependent on claim 16 and adds the limitations of applying a tag to the draft document and basing the selection of the reviewer or editor at least in part on the tag applied to the draft document.

In addressing these limitations, the Examiner relied upon item 116 in FIG. 4 of the Balderrama reference. Item 116 is a method step labeled as “RE-CONFIGURE ELECTRONIC INFORMATION (IN-WHOLE OR IN-PART) TO INCLUDE ANY DATABASE MODIFICATION OR TEMPLATE UPDATE”. It seems to appellants that neither this portion of the flowchart shown in FIG. 4, nor the flowchart as a whole, nor the related text at column 11, line 37 to column 12, line 5 of the reference, in any way teaches or suggests tagging a template, as asserted by the Examiner. But more fundamentally, there is nothing in the reference to suggest that selection of a reviewer or editor for a document is to be based on a tag applied to a

document. As noted above in connection with claim 16, the Balderrama reference does not explicitly discuss selecting a reviewer or editor for a document, and completely fails to render obvious the particular basis for selecting a reviewer/editor that is recited in claim 20.

Appellants therefore respectfully contend that claim 20 is patentable on separate grounds from those that are applicable to its parent claim 16. (As discussed below, claim 20 should be held patentable if claim 21 is held patentable and even if claim 16 is not.)

#### **VI. Claims 21-24 are not obvious in view of the Balderrama reference**

Claim 21 is taken as exemplary of claims 21-24.

Claim 21 is an independent method claim. In the invention recited in claim 21, a content creator is allowed to log into a system and is allowed to create a draft in the system. A tag is applied to the draft, and a reviewer or editor for the draft is selected based at least in part on the tag applied to the draft.<sup>2</sup> The draft is then transmitted to the selected reviewer/editor.

The Examiner handled claim 21 in substantially the same manner as claim 20. That is, the Examiner relied upon item 116 in FIG. 4 of the Balderrama reference as allegedly showing tagging of a template. As noted above, however, the reference does not support the Examiner in this regard. Moreover, as also noted in connection with claim 20, even if tagging of a template were present in the reference, there is nothing therein to teach or suggest that selection of an editor/reviewer for a document is to be based on a tag attached to the document.

Appellants therefore contend that claim 21, viewed as a whole, is unobvious when compared with the Balderrama reference taken as a whole.

(Since claim 20 includes the distinguishing feature of claim 21, claim 20 should be held patentable if claim 21 is held patentable.)

### **CONCLUSION**

The rejection of claims 16-24 is improper at least because all of those claims recite limitations that simply are not taught or suggested by the sole reference relied upon by the Examiner.

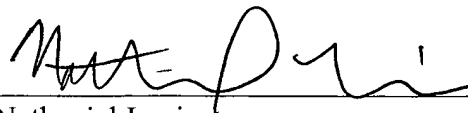
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<sup>2</sup> Like claim 16, claim 21 specifies that the selected reviewer or editor is a user of the system, i.e., an individual human being.

As required by 37 CFR §41.37(a)(1), this Brief is filed within two months from the date of mailing of Appellants' Notice of Appeal (*i.e.*, within two months of May 3, 2005); as such, no extension of time is believed due. However, if any additional fees are due in conjunction with this matter, the Commissioner is hereby authorized to charge them to Deposit Account 50-1852. An Appendix of claims involved in this appeal is attached hereto.

If any issues remain, or if the Examiner or the Board has any further suggestions for expediting allowance of the present application, kindly contact the undersigned using the information provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nathaniel Levin', is written over a horizontal line.

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September 6, 2008  
Date

Attachment: Appendix of claims



## APPENDIX A--CLAIMS

1-15. (canceled)

16. A method comprising:

allowing a content creator to log into a system;

providing a content type specific template to the content creator, the content type specific template being associated with a particular content type of a plurality of content types supported by the system;

allowing the content creator to create a draft by using the content type specific template;

selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system, the selecting based at least in part on the content type specific template, the selected at least one of a reviewer and an editor being a user of the system; and

transmitting the draft to an inbox of the selected at least one of a reviewer and an editor.

17. A method according to claim 16, further comprising:

allowing the content creator to select the content type specific template from among a plurality of content type specific templates supported by the system.

18. A method according to claim 17, wherein the plurality of content type specific templates includes a first template suitable for creating a website document, a second template suitable for creating an e-mail, a third template suitable for creating an alert, and a fourth template suitable for creating branded content.

19. A method according to claim 16, further comprising:  
allowing the selected at least one of a reviewer and an editor to review the transmitted draft.
20. A method according to claim 16, further comprising:  
applying a tag to the draft;  
wherein the selecting the at least one of a reviewer and an editor is based at least in part on the tag applied to the draft.
21. A method comprising:  
allowing a content creator to log into a system;  
allowing the content creator to create a draft in the system;  
applying a tag to the draft;  
selecting at least one of a reviewer and an editor from among a plurality of reviewers and editors accessible via the system, the selecting based at least in part on the tag applied to the draft, the selected at least one of a reviewer and an editor being a user of the system; and  
transmitting the draft to an inbox of the selected at least one of a reviewer and an editor.
22. A method according to claim 21, wherein the system automatically applies the tag to the draft.
23. A method according to claim 21, wherein the content creator applies the tag to the draft.

24. A method according to claim 21, further comprising:  
allowing the selected at least one of a reviewer and an editor to review the transmitted  
draft.

## APPENDIX B - EVIDENCE

No evidence is being submitted with this Appeal Brief (*i.e.*, this appendix is empty).



## APPENDIX C - RELATED PROCEEDINGS

No prior or pending appeals, interferences, or judicial proceedings are known to Applicants, Applicants' legal representative, or assignee, which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal. Therefore, there are no copies of decisions rendered by a court or the Board to attach (*i.e.*, this appendix is empty).